IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

Patent Application

Appellant (s):	Steven F. Knittel et al.		
Case:	Knittel 6-6-1 (LCNT/126021)		
Serial No.:	10/780,833	**Group Art Unit:**	2143
Filed:	02/18/2004	**Confirmation #:**	3728
Examiner:	Belani, Kishin G		
Title:	METHOD AND APPARATUS FOR IMPROVING WIRELESS DATA NETWORKS PERFORMANCE		

MAIL STOP – Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir or Madam:

REPLY BRIEF

Appellants submit this Reply Brief to the Board of Patent Appeals and Interferences in response to the Examiner's Answer, dated July 25, 2008, in the Appeal of the above-identified application.

The Commissioner is authorized to charge any fees due, including extension of time and excess claim fees, to counsel's Deposit Account No. 20-0782/LCNT/126021.

REMARKS

In Section 3 (Status of Claims) of the Examiner's Answer, the Examiner correctly notes that Appellants failed to state that claims 6 and 25 have been amended.

In Section 10 (Response to Arguments) of the Examiner's Answer, the Examiner cites a new portion of the Pepper reference not previously cited by the Examiner (namely, Col. 5, Lines 32 – 67 of the Pepper reference). The Examiner asserts that "[d]uring retrieval of the archived file, the index file is used to retrieve not only the archived file, but all the embedded resource files within it, in order to make a complete web page that is returned to the browser which requested the web page." (Examiner's Answer, Pg. 23, Emphasis added). Appellants respectfully disagree.

Appellants note that the Examiner's assertion regarding what is disclosed in the cited portion of the Pepper reference does not accurately reflect what is actually disclosed in the cited portion of the Pepper reference. The portion of the Pepper reference that is cited by the Examiner merely states that the XML indexer 150 extracts references to resources of XML document 110 and stores the references to the resources in an index file 155. The cited portion of the Pepper reference is devoid of any teaching or suggestion that the index file 155 includes any information which may be used to obtain the XML document 110. Similarly, the cited portion of the Pepper reference is devoid of any teaching or suggestion of using the index file 155 to obtain the XML document 110. In rejecting the Appellants' claims, the Examiner equates the "XML document" and "resources" of the Pepper reference to the "resource" and "embedded data" of Appellants' claims, respectively. Thus, since the Pepper reference fails to teach or suggest that the index file 155 includes any information which may be used to obtain XML document 110 or use of index file 155 to obtain XML document 110, and the XML document 110 of the Pepper reference is equated with the "resource" of Appellants' claims, the Pepper reference fails to teach or suggest "obtaining said resource and said embedded data using a resource index file having information regarding said resource and said embedded data," as claimed in Appellants' claim 1.

Appellants further note that, with respect to obtaining XML document 110 in a retrieval process, the Pepper reference merely states that the archiving system manages the retention of XML document 110 and its associated resources on the storage device 115, and allows XML document 110 to be retrieved and displayed at a later date. (Pepper, Col. 5, Lines 51 – 55).

Again, however, the Pepper reference is devoid of any teaching or suggestion of using index file 155 to obtain the XML document 110. Rather, the Pepper reference merely states that embedded resources of the XML document 110 can be retrieved using the index file 155. Specifically, the portion of the Pepper reference cited by the Examiner states that "...each resource extracted from the XML document 110 is stored in storage device 115, and indexed in an index file 155, such that the data can later be retrieved with ease...." (Pepper, Col. 5, Lines 64 – 66). Thus, the cited portion of the Pepper reference merely states that the embedded resources of XML document 110 can be retrieved using index file 155, not that the XML document itself can be retrieved using index file 155. Thus, the Pepper reference fails to teach or suggest "obtaining said resource and said embedded data using a resource index file having information regarding said resource and said embedded data," as claimed in Appellants' claim 1.

In Section 10 (Response to Arguments) of the Examiner's Answer, the Examiner provides additional arguments directed toward the manner in which the index file 155 is used in the system of the Pepper reference (Examiner's Answer, Pg. 24, Line 4 – Pg. 25, Line 15). More specifically, the Examiner notes that the document archive and retrieval processes "are two faces of the same coin." While Appellants agree with the Examiner's statement that the archival of a document without any subsequent retrieval of the document is a meaningless process, Appellants respectfully note that, in the Appeal Brief, the Appellants were merely pointing out that some of the portions of the Pepper reference relied upon by the Examiner to show a retrieval process were in fact describing the archive process performed in the Pepper reference and, thus, were inapplicable to Appellants' claim 1. Irrespective of this point, the Appellants maintain that, as described hereinabove, the Pepper reference fails to teach or suggest that XML document 110 is retrieved using index file 155. Rather, as admitted by the Examiner, the Pepper reference merely discloses that XML Indexer 305 is used "to obtain the filenames and location details for the list of embedded resources in an archived XML document...." (Examiner's Answer, Pg. 25, Lines 12 – 14, Emphasis added). Thus, the Pepper reference fails to teach or suggest "obtaining said resource and said embedded data using a resource index file having information regarding said resource and said embedded data," as claimed in Appellants' claim 1.

In Section 10 (Response to Arguments) of the Examiner's Answer, the Examiner provides responses to arguments presented by Appellants in the Appeal Brief. (Examiner's Answer, Pg. 25, Line 16 – Pg. 27, Line 14). More specifically, the Examiner again relies on the newly cited portion of Pepper (namely, Col. 5, Line 64 – 67) to argue that the Pepper reference discloses that the index file 155 is used to obtain both the XML document 110 and the embedded resources within it. (Examiner's Answer, Pg. 26, Lines 10 – 12). As described hereinabove, however, the Pepper reference is devoid of any teaching or suggestion of use of index file 155 to obtain XML document 110. Rather, the Pepper reference merely states that "...each resource extracted from the XML document 110 is stored in storage device 115, and indexed in an index file 155, such that the data can later be retrieved with ease...." (Pepper, Col. 5, Lines 64 – 66). Thus, the cited portion of the Pepper reference merely states that the embedded resources of XML document 110 can be retrieved using index file 155, not that the XML document 110 can be retrieved. The Pepper reference is devoid of any teaching or suggestion of use of index file 155 to retrieve the XML document 110. Thus, the Pepper reference fails to teach or suggest "obtaining said resource and said embedded data using a resource index file having information regarding said resource and said embedded data," as claimed in Appellants' claim 1.

Thus, at least for the reasons provided hereinabove, the Pepper reference is devoid of any teaching or suggestion of using an index file having information regarding both a resource and embedded data to obtain both the resource and the embedded data. Rather, the Pepper reference merely teaches an index file 155 that includes references to embedded data of an XML document 110 (called resources in the Pepper reference). Furthermore, as noted by the Examiner in the Examiner's Answer (at least in Section 6 (Grounds of Rejection to be Reviewed on Appeal)), Morlitz does not disclose a resource index file having information regarding a resource and embedded data (Examiner's Answer, Pg. 4).

Thus, Appellants respectfully maintain that the Morlitz and Pepper references, alone or in any permissible combination, fail to teach or suggest "a gateway operable within said network for receiving a request for a resource having embedded data and, in response to said request, for obtaining said resource and said embedded data using a resource index file having information regarding said resource and said embedded data, for bundling said resource and said embedded data into a file, and for sending said file," as claimed in Appellants' clam 1.

As such, independent claim 1 is patentable under 35 U.S.C. 103. Similarly, independent claims 12, 16, and 20 recite relevant limitations similar to those recited in independent claim 1. As such, for at least the same reasons discussed above, and reasons previously presented by the Appellants in the Appeal Brief, independent claims 12, 16, and 20 also are patentable under 35 U.S.C. 103. Furthermore, since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable under 35 U.S.C. 103.

It is respectfully submitted that the Examiner's other arguments are addressed by Appellants' Appeal Brief.

CONCLUSION

Appellants respectfully request that the Board reverse the rejections and pass the claims to allowance.

Respectfully submitted,

Eamon J. Wall
Registration No. 39,414
Patterson & Sheridan, L.L.P.
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Telephone: 732-530-9808